

840 CMR 16.00: INVESTMENT ADVICE AND MANAGEMENT

840 CMR 16.00 is the standard rule for investment advice and management promulgated by the Public Employee Retirement Administration Commission pursuant to M.G.L. c. 7, § 50 and M.G.L. c. 32, §§ 21 and 23. Except as may otherwise be provided by the Commission, or by supplementary rules of a particular retirement board approved by the Commission pursuant to 840 CMR 14.02, or by statute, 840 CMR 16.00 shall govern investment advice and management provided to any retirement board in the Commonwealth.

16.01: Definition

Unless a different meaning is plainly required by the context, words and phrases used in 840 CMR 16.00 through 25.00, shall have the meanings assigned them by 840 CMR 16.01. If no meaning is assigned by 840 CMR 16.01 they shall have the meanings assigned them by M.G.L. c. 32 and if no meaning is so assigned, they shall have their ordinary meanings.

Person means an individual, partnership, joint venture, corporation, association, trust, estate or organization of members of a retirement system.

Qualified investment manager means:

- (a) a person registered as an investment adviser pursuant to the Investment Advisers Act of 1940 (15 U.S.C. 80b - 1 *et seq.*);
- (b) a bank as defined by the Investment Advisers Act of 1940;
- (c) an insurance company qualified to manage, acquire, or dispose of assets of a plan pursuant to the laws of more than one state;
- (d) a partnership, joint venture, corporation, association or trust in which the advisor or general partner is exempt from registration pursuant to 203(b)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b - 1 *et seq.*)

16.02: Employment of Qualified Investment Manager; When Permitted or Required;

Delegation of

Responsibility; Expenses; Contract

- (1) Any board may employ a qualified investment manager as defined in 840 CMR 16.01 to advise the board on the purchase and sale of investments.
- (2) Any board which has received an investment exemption pursuant to 840 CMR 19.00 shall employ a qualified investment manager or qualified investment managers who shall manage the funds of the system.
- (3) No person who is not a qualified investment manager as defined by 840 CMR 16.01 shall advise any board on the purchase and sale of investments or manage the funds of any system which has received an exemption pursuant to 840 CMR 19.00.

(4) No board which has not received an exemption pursuant to 840 CMR 19.00 may delegate responsibility for the investment of the funds of the system provided, however, that any board may participate in or purchase units of the PRIT Fund.

(5) Employment of a qualified investment manager shall be by written contract executed prior to the delegation of investment authority to the qualified investment manager stating all terms and conditions of employment including, but not limited to, investment objectives, brokerage practices, proxy voting and tender offer exercise procedures, term of employment, fees and termination provisions. Every such contract shall provide that the qualified investment manager is a fiduciary with respect to the funds the board invests pursuant to the qualified investment manager's advice regarding the purchase and sale of investments or the funds which the qualified investment manager manages, as the case may be. No contract shall contain a provision which requires the indemnification of the manager by the retirement board. A copy of every contract shall be retained by the board and be subject to audit by the Commission.

(6) All qualified investment managers shall annually submit a current Form ADV Part II of the Uniform Application for Investment Adviser Registration to the board for which it manages assets and to the Public Employee Retirement Administration Commission.